

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

DANIEL KEATING-TRAYNOR on
behalf of himself and all others similarly
situated;

Plaintiffs,

vs.

AC SQUARE INC.; COMCAST INC.;
AFSHIN GHANEH; ANDREW
BAHMANYAR; AND DOES 1-60
INCLUSIVE;

Defendants.

Case No. CV-08-2907-MHP

**STIPULATION AND ~~[PROPOSED]~~
ORDER TO ALLOW COMCAST INC. TO
FILE ITS MOTION TO DISMISS
PLAINTIFF'S COMPLAINT PRIOR TO
THE INITIAL CASE MANAGEMENT
CONFERENCE**

Honorable Marilyn H. Patel

Plaintiff Daniel Keating-Traynor, by and through his attorney, Daniel Berko, and
Defendant Comcast Inc. ("Comcast") by and through its attorneys Morgan, Lewis and Bockius
LLP, hereby stipulate as follows:

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RECITALS

A. On June 11, 2008, the Court set the Initial Case Management Conference in this action for September 14, 2008. See Docket No. 2 (Case No. CV-08-2907-MHP).

B. On July 10, 2008, Plaintiff served Comcast with the Summons and Complaint in this action.

C. On July 11, 2008, Defendants AC Square, Ghaneh, and Bahmanyar filed Ex Parte Applications for Orders Allowing Defendants to File and Have Heard Motions to Dismiss Pursuant to FRCP 12(b)(6) Prior to Initial Case Management Conference in Case No. CV-08-2907- MPH. See Docket Nos. 7, 8, and 9 (Case No. CV-08-2907-MHP).

D. On July 15, 2008, the Court granted Defendants AC Square, Ghaneh, and Bahmanyar's Ex Parte Applications for leave to file their motions to dismiss by July 21, 2008. The Court set the following related dates: Oppositions to be filed by August 4, 2008, Replies to be filed by August 11, 2008, and Motion to be heard on August 25, 2008 at 2:00 p.m. See Docket No. 10 (Case No. CV-08-2907-MHP).

E. On or about July 15, 2008, the parties agreed to an extension of time for Comcast to file a response to Plaintiff's Complaint, up to and including July 30, 2008.

F. On July 16, 2008, the Court ordered Case No. CV-08-2907 and Case No. CV-08-3035 related. See Docket No. 11 (Case No. CV-08-2907-MHP) and No. 16 (Case No. CV-08-3035-EDL).

G. On July 17, 2008, Case No. CV-08-3035-EDL was reassigned to the Honorable Judge Marilyn H. Patel.

H. Federal Rule of Civil Procedure 12(a)(1)(A)(i) requires a defendant to file an answer to a complaint within 20 days after being served, and that Federal Rule of Civil Procedure, Rule 12(b) allows a defendant to serve a motion to dismiss in lieu of an answer. The parties further agree that absent a Court Order allowing for an exception, Standing Order Number 4 prevents Defendant from filing the accompanying motion to dismiss until after the Initial Case Management Conference on September 15, 2008.

IT IS SO ORDERED that:

The parties' request to allow Defendant to file the attached Motion to Dismiss Plaintiff's Complaint is granted. Defendant shall file and serve the motion by no later than ¹⁵
August 11, 2008. The hearing on this motion is set for September ~~8~~, 2008, at 2:00 p.m. Any opposition to the motion shall be filed and served by August 25, 2008. Any reply to the opposition shall be filed and served by September 2, 2008.

Dated: August 1, 2008

By: _____

